

RULES FOR APPEAL TO THE BOARD OF BAR COMMISSIONERS
FOR THE NAVAJO NATION BAR ASSOCIATION

RULE 1. Scope of Rules.

These rules shall govern the procedure in all appeals to the Board of Bar Commissioners of the Navajo Nation Bar Association (N.N.B.A.)

RULE 2. Filing of Appeal.

a) All appeals shall originate by filing a Notice of Appeal with the Secretary of the Navajo Nation Bar Association in writing, including with it a brief explaining the grounds for the appeal. A signed and dated copy of the decision being appealed must be attached to the Notice of Appeal. A Twenty Dollar (\$20.00) filing fee must be paid at the time of filing.

b) The Secretary shall not accept any appeal for filing and no appeal shall be considered filed until a copy of the decision being appealed has been attached, and until the filing fee has been paid.

c) The Notice of Appeal, the brief, and the copy of the decision being appealed shall be filed with the Secretary within thirty (30) calendar days of the date the decision being appealed was signed. No extension of time within which to file the appeal shall be granted, and no appeal filed after the expiration of the thirty (30) day period shall be allowed.

RULE 3. Scope of Appeal.

a) An appeal may be on questions of law or findings of fact.

b) The Board of Bar Commissioners will not hear new evidence and shall decide the appeal entirely on the record, the briefs, and the oral argument, if any.

RULE 4. Service and Answer.

a) The Notice of Appeal and any motions or other papers filed in support of an appeal shall be served on the chairman of the deciding body. Delivery shall be by personal service or by certified mail. The appellant shall certify in writing on the original of each document filed with the Board of Bar Commissioners that such service has been made and on what date the service was made.

b) The deciding body shall have twenty day (20) from

the date of such service to file a response answering the appeal. The deciding body, at its discretion, may file, within the same time period, a brief answering the appellant's arguments.

RULE 5. Notice of Hearings.

a) It shall be the responsibility of appellant's counsel of record to ensure the appearance of his party at all hearings before the Board.

b) All notices and orders from the Board of Bar Commissioners shall be given only to appellant's counsel of record or to appellant, if he has no counsel.

RULE 6. Stay of Execution.

a) The appellants may file with the chairman of the deciding body a motion for a stay of execution of any judgment or order at the same time the Notice of Appeal is filed or at any time thereafter. If the chairman of the deciding body denies the motion, he shall set forth the reasons in writing.

b) A stay may be upon an appeal bond, or otherwise, as the chairman of the deciding body may require.

c) All documents, orders, and other papers filed with the deciding body relating to the stay of execution shall be included in the case filed and copies shall be forwarded on appeal.

d) If the chairman of the deciding body denies the motion for a stay and only in such case, a petition for a stay may be filed with the Board, which may grant the stay upon an appeal bond or otherwise. A copy of the order of the chairman of the deciding body denying the stay shall be attached to the petition to the Board for such a stay. If the chairman of the deciding body grants the stay, a copy of such order shall be added to the Notice of Appeal filed with the Secretary of the Board.

RULE 7. Record of Appeal

As soon as the copy of the Notice of Appeal has been filed with the deciding body and a stay of execution granted or denied, the chairman of the deciding body shall forward to the Secretary of the Board a record of the case consisting of the following:

a) The case file, containing copies, of all original papers filed and orders entered in the case and the electronic recordings of the proceedings.

- b) A written transcript, only if requested by the President of the Board.
- c) The certificate of the chairman of the deciding body that the file (and transcript, if applicable) is complete and accurate.
- d) The order granting the stay of execution and setting conditions, if any, or the order denying the stay.

RULE 8. Hearings.

a) The hearing of all appeals shall be in closed session before a panel consisting of the President of the N.N.B.A. and two bar commissioners appointed by him. The chairman of the deciding body or his designate may be present at the hearing.

b) If appellant fails to appear at the time set for the hearing of the appeal, the Board may hear the evidence or the argument presented by the representative of the deciding body and decide the appeal on the basis of such presentation and the briefs submitted.

c) If appellant or his counsel so stipulates, the Board may decide the appeal on the basis of the briefs alone.

RULE 9. Decision on Appeal.

The Board shall render its decision in writing within thirty (30) days of the date of oral argument or entry of stipulations pursuant to Rule 8. Such written decision shall constitute the final decision of the Board. When an appeal is reversed or remanded with directions, the written decision of the Board shall constitute a mandate to the deciding body to carry out the decisions of the Board. The Secretary of the Board shall mail or deliver to the chairman of the deciding body a signed copy of the Board's decision. Costs on appeal shall be borne by appellant.

RULE 10. Motions for Rehearing and Other Motions Filed After Decisions.

The decision of the Board shall be final as of the date it is given. Any motion for rehearing, a motion for clemency or other motion or petition filed after the Board has given its decision shall be allowed only upon consideration by the hearing panel. When any such motion or petition is filed, the President may deny it or, if he considers it of sufficient importance, he may set it for hearing. Any such motions or petition shall be regularly scheduled for a hearing of which the appellant has been notified and is represented. No single panel members shall have any authority to modify the judgment or to order any temporary

stay of execution.

RULE 11. Publication of Decisions.

The Secretary of the Board shall keep a file of all decision of the Board and such decisions shall be made available to the bar members.

The cost of providing the written decisions shall be borne by the person requesting the decisions.

RULE 12. Other Special Proceedings.

The Board will take original jurisdiction in special proceedings where it appears that the proceeding is necessary and there is no other adequate remedy.

RULE 13. All Motions, Orders, and Proceeding to be in Writing.

All request for appeal, petitions, motions, stipulations, orders, and other actions taken by or before the Board must be in writing and properly dated and signed, except motions, stipulations, and orders made during a hearing.

RULE 14. Pre-Hearing Procedure.

In any proceeding the Board may, in its discretion, direct the counsel for the appellant and a representative of the deciding body to appear before the Board for a conference prior to the hearing date to consider:

- a) Simplifying the issues.
- b) Making clearer statement of the case.
- c) The issues or points of law which are to be decided.

The pre-hearing conference shall be with the President.

The President may, in his discretion, require the counsel to prepare and present a pre-hearing order covering the matters agreed upon at the pre-hearing conference.

RULE 15. Computation of Time.

In computing any time limits required by these rules, by order of the board, or by any applicable law, the day of the act, event, or judgment shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or legal holiday, in which case the period shall extend to the end of the next day which is not a

Saturday, Sunday, or legal holiday.

RULE 16. Further Appeals.

Appeals from a final decision of the Board of Bar Commissioners may be taken to the Supreme Court of the Navajo Nation.

RULE 17. Adoption and Amendment of Rules.

The Rules were adopted by unanimous vote of the Board of Commissioners on March 4, 1983. These Rules may be amended by majority vote of the Board of Bar Commissioners at any duly-called meeting of the Board.